IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 450 OF 2005

Shri Narayan Sudam Pawar & Ors. .. Applicants.

V/s.

The State of Maharashtra .. Respondent.

Shri Milind V. Deshmukh for the Applicants.
Shri R. Y.Mirza, APP for Respondent- State.

CORAM : A.M.KHANWILKAR, J.
DATED : FEBRUARY 10,2005.

PC :-

. Heard the learned counsel for the parties. Perused the record.

2. The prosecution case is that the applicants-accused forcibly took away the first informant and her mother Geetabai on the ground that Geetabai was responsible for two deaths in their family due to witchcraft experimented on them. It is stated that first informant (Muktabai) and Geetabai were forcibly taken away from their house by the accused to the house of the applicant No.3 and both were assaulted between 4 p.m. to 7 p.m.. Geetabai became unconscious because of merciless beating. It is

stated that at around 7’ O clock the brother in-law of Muktabai came on the scene and took away Muktabai alongwith him leaving behind Geetabai at the same place although she was found to be unconscious. It is the prosecution case that on the next day, the Applicant No.3 came and informed that Geetabai was missing and it is on that suspicion, the applicants are prosecuted for the offence of murder of Geetabai amongst other offence punishable under section 302 of I.P.C. In so far as the incident of forcibly taking away Muktabai and Geetabai is concerned, there is evidence to support that position. The fact that after taking away Muktabai and Geetabai to the house of the applicant No.3 where they were mercilessly beaten; even with regard to that there is evidence of VilashJawale and Rama Pimple. However, none of these witnesses have stated that Geetabai became unconscious because of the said beating. Be that as it may, it is intriguing that the brother- in- law of Muktabai came on the scene with a view to rescue both the ladies but only chose to take away Muktabai, leaving behind Geetabai in unconscious condition. The entire story with regard to Geetabai becoming unconscious and later on found missing is a mistry and no clear evidence is forthcoming to support that position. In other words,

it is possible to say that there is evidence to indicate the complicity of the applicant in forcibly taking away Muktabai and Geetabai to the house of applicant No.3 and of beating them. However, the circumstances in which the said two ladies were taken away, according to the defence, is that, accused had reason to believe that Geetabai was responsible for the two deaths in their family. Viewed in this perspective, it is possible to say that the Applicants were under some misconception or misguided and have overreacted to the situation. As there is no clear evidence about the applicants being responsible with the missing of Geetabai or about her murder and as investigation is complete and the custody of the applicants is no more necessary, the applicants deserve to be enlarged on bail but on strict conditions as follows:-

(a) Applicants are enlarged on bail in connection with C.R.No. 32/2004 registered with Velapur Police Station on executing personal bond in the sum of Rs. 10,000/- (Rs. Ten thousand only) each with one or two local sureties in the like amount.

(b) Applicants shall not enter the jurisdiction of Velapur Police Station during the pendency of the trial. Instead they shall report their place of residence to the investigating officer and the trial court within one week from the date of their release.

(c) The Applicants shall extend full co-operation for early disposal of the trial. If the trial court is of the opinion that they are responsible for delay in trial that fact be recorded in the Rozanama, which can be a ground for cancellation of bail.

(d) The Applicants shall not influence the prosecution witness or tamper with the prosecution evidence in any manner whatsoever.

3. Ordered accordingly.

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